UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,627	12/29/2000	Joseph F. Khouri	062891.0471	2064

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EXAMINER
MEUCCI, MICHAEL D

ART UNIT	PAPER NUMBER
2142	

NOTIFICATION DATE	DELIVERY MODE
05/03/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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PTOL-90A (Rev. 04/07)

		Application No.	Applicant(s)
Office Action Summary		09/751,627	KHOURI ET AL.
		Examiner	Art Unit	
		Michael D. Meucci	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _24 January 2007_.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-50 and 58-68_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-3,5,9-16,21-26,31-36,41-50,58-62 and 65-68_ is/are rejected.

7)☒ Claim(s) _4,6-8,17-20,27-30,37-40,63 and 64_ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _29 December 2000_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____ .

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

DETAILED ACTION

1.   This action is in response to the Request for Continued Examination (RCE) filed

on 24 January 2007.

2.   This application has been reassigned to Michael Meucci.

Response to Arguments

3.   The applicant's arguments pertaining to common ownership have been

considered but are moot in view of new grounds of rejection.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

5.   Claim 1 rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers et

al. (U.S. 6,785,379 B1) hereinafter referred to as Rogers, in view of Lakaniemi et al.

(U.S. 7,111,091 B2) hereinafter referred to as Lakaniemi.

        a.   Regarding claim 1, Rogers teaches: a communication network interface

operable to receive streaming media from a network device external to the telephony

device, the streaming media comprising a voice message received by the

communication network interface at a first delivery rate (lines 27-34 of column 4, lines

13-22 of column 9, and lines 41-60 of column 45); and a memory coupled to the

communication network interface, the memory operable to store media received through

the communication network interface (lines 27-34 of column 4, lines 13-22 of column 9,

and lines 41-60 of column 45). Rogers does not explicitly teach: a media rate controller

coupled to the memory and the communication network interface, the controller

operable to determine an adjustment to the first delivery rate and generate a command

for transmission to the external network device, the command requesting a subsequent

transmission of streaming media from the external network device to the VoIP telephony

device to be delivered at an adjusted delivery rate based upon the adjustment to the

first delivery rate. However, Lakaniemi discloses: "further comprising an output rate

control means adapted to control an output rate adjusting means which is adapted to

adjust said output rate of said buffer, wherein said output rate control means, in

response to said fill level condition detected by said detection means, issues a first

control signal controlling said adjusting means to increase a current output rate of said

buffer to a predefined output rate, and said output rate control means, in response to

each non-dropped data packet received after said detection by said detection means,

issues a second control signal controlling said adjusting means to decrease a currently

adjusted output rate," (lines 51-62 of column 2). It would have been obvious for one of

ordinary skill in the art at the time of the applicant's invention to have a media rate

controller coupled to the memory and the communication network interface, the

controller operable to determine an adjustment to the first delivery rate and generate a

command for transmission to the external network device, the command requesting a

subsequent transmission of streaming media from the external network device to the

VoIP telephony device to be delivered at an adjusted delivery rate based upon the adjustment to the first delivery rate. "With the device and/or method according to the present invention being implemented, it is advantageously enabled that bandwidth bursts are allowed when they are useful, i.e., after a packet loss when for example a codec really needs information to maintain good speech quality. The higher limit of burst allowance (i.e. the maximum output rate, as a specific example of predefined output rate, is the sum of a nominal output rate plus the amount by which the nominal output rate is increased (.DELTA.BW)) should be chosen such that traffic engineering requirements for the network in question are fulfilled. The lower limit (i.e. the nominal output rate) may be estimated from end-to-end delay calculation. Note that a nominal output rate is considered to represent a default output rate with which the buffer is configured to be operated under normal operating conditions (i.e. without a necessity to drop packets)," (line 56 of column 3 through line 4 of column 4). It is for this reason that one of ordinary skill in the art at the time of the applicant's invention would have been motivated to have a media rate controller coupled to the memory and the communication network interface, the controller operable to determine an adjustment to the first delivery rate and generate a command for transmission to the external network device, the command requesting a subsequent transmission of streaming media from the external network device to the VoIP telephony device to be delivered at an adjusted delivery rate based upon the adjustment to the first delivery rate in the system as taught by Rogers..

b.   Independent claims 15, 15, 24, 35, 44, and 58 contain limitations similar to those disclosed in claim 1 and are rejected under the same rationale.

c.   Regarding claims 3, 16, 25, 36, 46, 52, and 65, while Rogers discloses voice, fax, and data transmission, Rogers does not explicitly teach the streaming media comprises voice over Internet protocol packets. Lakaniemi discloses: "Techniques for transmission of real-time signals such as streaming audio or video, voice over IP (VoIP) or videoconferencing media streams in Internet Protocol (IP) based networks are in high demand due to prospect of cost savings derived from the use of data communications equipment based on packet switched transmission instead of circuit-switched transmission networks," (lines 12-18 of column 1). It is obvious from the teachings of Lakaniemi that VoIP would be easily incorporated into the system of Rogers to produce the applicant's invention.

d.   Regarding claim 5, Rogers does not explicitly teach: wherein the adjustment to the first delivery rate specifies a new rate for the delivery of the streaming media. However, Lakaniemi discloses: "further comprising an output rate control means adapted to control an output rate adjusting means which is adapted to adjust said output rate of said buffer, wherein said output rate control means, in response to said fill level condition detected by said detection means, issues a first control signal controlling said adjusting means to increase a current output rate of said buffer to a predefined output rate, and said output rate control means, in response to each non-dropped data packet received after said detection by said detection means, issues a second control signal controlling said adjusting means to decrease a currently adjusted output rate," (lines 51-

62 of column 2). It would have been obvious for one of ordinary skill in the art at the time of the applicant's invention to have the adjustment to the first delivery rate specify a new rate for the delivery of the streaming media. "With the device and/or method according to the present invention being implemented, it is advantageously enabled that bandwidth bursts are allowed when they are useful, i.e., after a packet loss when for example a codec really needs information to maintain good speech quality. The higher limit of burst allowance (i.e. the maximum output rate, as a specific example of predefined output rate, is the sum of a nominal output rate plus the amount by which the nominal output rate is increased (.DELTA.BW)) should be chosen such that traffic engineering requirements for the network in question are fulfilled. The lower limit (i.e. the nominal output rate) may be estimated from end-to-end delay calculation. Note that a nominal output rate is considered to represent a default output rate with which the buffer is configured to be operated under normal operating conditions (i.e. without a necessity to drop packets)," (line 56 of column 3 through line 4 of column 4). It is for this reason that one of ordinary skill in the art at the time of the applicant's invention would have been motivated to have the adjustment to the first delivery rate specify a new rate for the delivery of the streaming media in the system as taught by Rogers.

e.   Regarding claims 9, 21, 31, and 41, Rogers teaches an output device coupled to memory and an output interface and generating output (lines 27-28 of column 44).

f.   Regarding claims 10, 23, 33, 43, 48, 50, 61, 66, 68, Rogers teaches an input device to detect commands to adjust the output rates (line 46 of column 45).

g. Regarding claims 22, 26, 32, 42, 47, and 59, Rogers teaches: wherein the output comprises one of audible sound and video graphics (lines 27-34 of column 4).

h. Regarding claim 34, Rogers teaches: software (lines 16-23 of column 11).

i. Regarding claims 49 and 62, Rogers teaches: the adjusted rate is less than the previous rate (line 64 of column 45).

j. Claims 11-13 disclose the method of the preceding claims. The cited prior art does not explicitly disclose input devices such as a button, Speech recognition, GUI, mouse, speaker, and video, or determining that that rate can not be adjusted. However, Official Notice is taken MPEP 2144.03 (a)) that input devices such as a button, speech recognition, GUI, mouse, speaker, and video, or determining that that rate can not be adjusted is well known in the art to insure software is able to communicate. It would have been obvious to one of ordinary skill in the art at the time of the application's invention to use input devices such as a button, speech recognition, GUI, mouse, speaker, and video, or determining that that rate can not be adjusted to obtain the advantages of communicating with compatible software. By the above rational, the claim is rejected.

k. Regarding claim 2, Rogers does not explicitly teach: wherein the communication network interface is an Ethernet card. However, Official Notice is taken of using an Ethernet card for connecting to a network. The use of Ethernet cards for connecting to a network is extremely well known in the art and their use was obvious at the time of the applicant's invention.

I.   Claim 14 discloses substantially the same invention as claim 1 with the addition of a digital signal processor coupled to the memory, the digital signal processor operable to process the media in the buffer based on the rate at which output is being generated based on the media. Rogers does not explicitly teach this limitation, however, Lakaniemi discloses: "According to the present invention, this object is, for example, achieved by a device for controlling a stream of data packets, comprising a buffer adapted to receive a data packet stream from a data source and to output said packet data stream with an output rate to a packet data communication network, a monitoring means adapted to monitor a fill level of said buffer, a detection means adapted to detect a fill level condition of said buffer, in which an incoming data packet has to be dropped, and adapted to control a dropping means for dropping an incoming data packet upon detection of said fill level condition," (lines 40-50 of column 2). It is also for this reason that one of ordinary skill in the art would have been motivated to incorporate a digital signal process operable to process the media in the buffer based on the rate at which output is being generated based on the media in the system as taught by Rogers. Additionally, Rogers implicitly teaches a speaker coupled to the coder/decoder, the speaker operable to receive the analog signals and generate audible sounds based on them (see also Fig. 1).

Allowable Subject Matter

6.   Claims 4, 6-8, 17-20, 27-30, 37-40, and 63-64 are objected to as being

dependent upon an objected/rejected base claim, but would be allowable if rewritten in

independent form including all of the limitations of the base claim and any intervening

claims.

7.   The examiner's statement of reasons for allowance is provided in the previous

office action which was mailed 06 October 2006.

8.   Any comments considered necessary by applicant must be submitted no later

than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue   fee. Such submissions should be clearly labeled "Comments on

Statement of Reasons for Allowance."

Conclusion

9.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Nicol (U.S. 6,757,367 B1) discloses VoIP and packet delay variation.

10.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Michael Meucci at (571) 272-3892. The examiner can

normally be reached on Monday-Friday from 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Andrew Caldwell, can be reached at (571) 272-3868. The fax phone

number for this Group is 571-273-8300.

Communications via Internet e-mail regarding this application, other than those

under 35 U.S.C. 132 or which otherwise require a signature, may be used by the

applicant and should be addressed to [michael.meucci@uspto.gov].

All Internet e-mail communications will be made of record in the application file.

PTO employees do not engage in Internet communications where there exists a

possibility that sensitive information could be identified or exchanged unless the record

includes a properly signed express waiver of the confidentiality requirements of 35

U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published

in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG

89.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For

more information about the PAIR system, see http://pair-direct.uspto.gov. Should you

have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197 (toll-free).

ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER